

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3131 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 : NO

CHETANSINH RAJITSINH GOHEL

Versus

DISTRICT MAGISTRATE

Appearance:

MR PM DAVE for Petitioner
MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 21/07/1999

ORAL JUDGEMENT

Learned advocate Mr. Dave appearing for the
petitioner is not present on call. Heard learned AGP Ms.
Punani for the respondents.

The petitioner challenges the order of preventive
detention dated 6th October, 1998 made by the District
Magistrate, Bhavnagar, under the powers conferred upon

him under sub-section (2) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

In the grounds of detention, the Detaining Authority has relied upon two offences punishable under Chapters XVI and XVII of the IPC registered against the petitioner on 25th December, 1997 and 13th September, 1998. Further, four witnesses have been examined, who have, on assurance of anonymity, given statements in respect of the nefarious activities of the petitioner which are prejudicial to the maintenance of public order. The Detaining Authority has, therefore, held the petitioner to be a 'dangerous person' within the meaning of section 2 (c) of the Act, whose activities are prejudicial to the maintenance of public order.

Amongst other challenge, the petitioner has also contended that the materials furnished in support of the grounds of detention contain a document at page 25, wherein the order of bail has been reproduced, which is in English. The petitioner does not know English language and, therefore, was unable to make an effective representation against the order of detention. It is not disputed that page-25 contains the order of bail, which is in English. The assertion that the petitioner does not know English, is not controverted by making an affidavit, nor any cogent material is produced before the court to establish that the petitioner knows English language. In absence of the denial and any other material, the assertion has to be believed. It must, therefore, be held that the petitioner was given a document in support of the grounds of detention in a language not known to the petitioner. The petitioner is thus deprived of his Constitutional right to make an effective representation against the order of detention. The order of detention is, therefore, vitiated.

The petition is allowed. The impugned order dated 6th October, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

...